

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:19 CR 613 SRC
)	
HARRY JOHN HAMM,)	
)	
)	
Defendant.)	

GOVERNMENT'S MOTION IN LIMINE

COMES NOW the United States of America, by and through its attorneys, Jeffry B. Jensen, United States Attorney for the Eastern District of Missouri, and Robert F. Livergood, Assistant United States Attorney for said District, and files this Motion in Limine to exclude evidence, argument or examination concerning the following:

1. Alternate Perpetrator

The Government moves the Court to exclude evidence, argument or examination related the possibility of an alternate perpetrator. The possibility of an alternate perpetrator is inadmissible unless the defense can demonstrate a direct link between the suspect and the crime. It is inadmissible if all defendant can do is rely on hearsay or cast bare suspicion on a third party. *See United States v. DeNoyer*, 811 F.2d 436, 440 (8th Cir. 1987) (Evidence of alternate perpetrator was properly excluded where the evidence was remote and speculative.).

2. Defendant's out of Court Exculpatory Statements

The Government moves the Court to exclude evidence, argument or examination related to defendant's out-of-court exculpatory statements. Out-of-court statements of the defendant offered

to prove the truth of the matter asserted are hearsay. *United States v. Esparza*, 291 F.3d 1052, 1054 (8th Cir. 2002) (Exculpatory statement of defendant properly excluded as hearsay).

3. Prior Bad Acts of Witnesses

The Government moves the Court to exclude evidence, argument or examination related prior bad acts of witnesses. Rule 404(b) prohibits the use of other crimes, wrongs, or acts except in some circumstances but only where reasonable notice has been given. The defendant has failed to provide any notice of his intention to offer prior bad acts evidence and should therefore be prohibited from doing so.

4. Motion to Exclude Witnesses other than the Case Agent

The Government requests that any witnesses for the defense be excluded from the courtroom during opening statements and while other witnesses are testifying.

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court grant its Motion in Limine.

Respectfully submitted,

JEFFREY B. JENSEN
United States Attorney

s/ Robert F. Livergood
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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Ms. Nancni McCarthy
Attorney for Defendant.

s/ Robert F. Livergood
ROBERT F. LIVERGOOD, 35432MO
Assistant United States Attorney